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A critical review: Tommorrow's Lawyers by Richard Susskind

Tommorrow's Lawyers is the work of British author, speaker and independent adviser Richard Susskind. Considering he has a first class honours degree in law from the University of Glasgow and a doctorate in law and computers from Balliol College, Oxford, his main area of expertise is legal service and changes that it is going to face due to the rapid increase in use and importance of information technology. He wrote and edited numerous books, including *Expert Systems in Law*, *The Future of Law*, *Transforming the Law*, *The Susskind Interviews: Legal Experts in Changing Times*, *The End of Lawyers? Rethinking the Nature of Legal Services* and *Tommorrow's Lawyers*. Also he wrote approximately 150 columns for *The Times* and his work has been translated into 10 languages.

In *Tommorrow's Lawyers* Susskind elaborates on issues he had indicated in *End of Lawyers?* (2008). *Tommorrow's Lawyers* has been written to provide useful informations to future lawyers, legal educators and all those who are already working in legal profession. Susskind offers his readers a glance into the future by portraying his predictions about drastic changes that are going to occur in legal and justice system, primary because of rapid progress of information technology.

Although some consider this book to be a bit of a re-write of his earlier books, it has attracted a lot of attention and has been subject of many positive reviews such as those written by: Sir Philip Bailhache (*The Jersey & Guernsey Law Review*), Colman Candy (*Irish Times*), Fred Krebs (*Canadian Lawyer Magazine*), Joanna Goodman (*The Law Society Gazette*) and Paul Lippe (*ABA Journal*). Writers of this reviews share the belief that *Tommorrow's Lawyers* is, as Colman Candy well described it, „a compelling glimpse into the near-future of legal services”.

The book is divided in three parts containing sixteen chapters. In Part I, *Radical Changes in Legal Market* (chapter 1-5) Susskind “encapsulates and updates the key themes of *The End of Lawyers?*”¹: the “more for less” challenge, liberalization and information technology. A reason to do so was to make *Tommorrow's Lawyers* a standalone read.

In the first chapter, *Three Drivers of Change*, Susskind emphasizes factors he finds to be crucial when it comes to radical changes in the way in which legal services work. Regardless of whether the clients are large organizations, medium-sized businesses or individual citizens, they all share the same problem - not being able to cover the expenses of legal service when being performed in the traditional way. As the amount of clients legal work grows but budget for legal services due to difficult economic condition decreases the “more for less” challenge becomes problem that can't be avoided. The dilemma of how to deliver more at less cost Susskind sees as something that will “underpin and define the next decade of legal service”. But that is not the only change he believes to be upon us. Subject of discussion of many critics and reformers lately has been the unjustifiable monopoly of legal profession. Even though expertises of legal practitioners are in clients in-

terests Susskind believes the traditional ways of working are far from efficient so consequently a space for "new, less costly, more client-friendly ways" of working has been made. A great pressure will be made on traditional firms and this "liberalization of legal system in some countries will result with liberation in most others". A lot of attention in Susskinds works has been devoted to IT and its impact on both lawyes and courts. He predicts that "pervasive, exponentially growing, innovative technologies will come to disrupt and radically transform the way lawyers and courts operate". Susskind advises young lawyers not to fall into the trap of as he calls it "irrational rejectionism" of sceptics with no personal experience with upcoming technologies, but to be open-minded and embrace new ways of practicing the law that were not possible in the past.

In the second chapter, *Strategies of Success*, Susskind emphasises hourly billing to be "disincentive to efficiency" because it rewards more those who take longer to complete their work. He believes clients should pay for the value of outcome rather than time spent creating it. However the author believes that pricing differently won't be sufficient to deal with "more-for-less" challenge since those who charge will do "little more than repackaging of the original". To deal with that Susskind suggest two effective strategies: efficiency strategy and collaboration strategy. The first one requires finding a way of cutting costs of service while second one suggests clients to share a cost of similar legal services they need. As a result "recycling" of legal work will become practically impossible.

In chapter three, *Commoditizing the Law*, Susskind is facing us with false dichotomy between bespoke (the one that demands one-on-one approach) and commoditized legal work. This binary distinction is being imposed to many law students during their legal education who as a result believe these are the only two options. Instead of that concept, Susskind offers five different stages of legal services: bespoke, standardized, packaged and commoditized. By distinguishing these stages he provided more realistic description of what legal practitioners actually do. After leading us through every stage he concludes that despite dissatisfaction of lawyers legal work that is "commonplace and routinizable" will be available on the Web. That will increase involvement of those who otherwise wouldn't be financially capable to use legal services.

The main topic of chapter four, *Working differently*, is how to decompose the work on different tasks and in which of five stages (earlier mentioned) would be the most appropriate to allocate it. By suggesting division of conduct of litigation into the nine tasks, Susskind wants to present the thesis that only two or three tasks out of nine require unique approach. Remaining tasks could be handed to alternative providers that would perform them at "lower cost and to a higher quality than traditional law firms". In order to support this thesis Susskind identified 15 ways of sourcing legal work. He pointed out that legal work in future will be firstly decomposed and then solved by finding the best sourcing for each task. That will sometimes include adopting several alternative aproaches, so called "multi-sourcing". Susskind sees the end result as "tailored solution, delivered by an advanced system rather than by human craftsman".

In the fifth chapter of his book, *Disruptive Legal Technologies*, Susskind introduces distinction (based on Clayton's Christensen's book, *The Innovator's Dilemma*) between sustaining and disruptive technologies: the ones that support current operating in contrast to ones that change current functioning. Although some of 13 disruptive technologies in law he pointed out are in my opinion unlikely to ever be able to completely replace traditional ones with same quality, there are some that offer far more convenient and more accessible ways of functioning. The one that I found very interesting was e-learning in which he suggested a solution of problem persistent in countless law schools. Susskinds idea of replacing uninspiring professors or as he calls them "rumblers and the dictators" by online lectures would provide students to be a part of lectures of exquisite speakers who deliver "a memorable social and educational experience".

After identifying main drivers of change, and presenting strategies that will be effective in future in part II of the book, *The New Landscape* (chapter 6-10), Susskind focuses on future of law firms, new roles of in-house lawyes, as well as arrival of virtual courts.

Chapter six, *The Future for Law Firms*, focuses on changes that will have to be made by law firms in order to survive "cost pressures from clients" as well as competition as "new sevice providers emerge". Law firms will be forced to change, in spite of hesitancy, strategies that used to be efficient, such as building large teams of junior lawyers to handle the routine work for them. Instead, Susskind believes firms will be forced to operate with a team of high-powered partners with few associates, and the routine work "will be sourced beyond the firm". Susskind points out there are around 20 law firms that see no need to change. It is their belief that in state of balance legal work is "not price sensitive", and clients in some situations will still want traditional approach. Incompliance of such large firms Susskind sees as a chance for medium-sized to form itself in credible alternatives. On the other hand he considers smaller firms to be unsustainable in new, liberalized regimes. The ones that Susskind believes will remain almost intact by upcoming changes are trial lawyers and barristers because "there is no alternative source for this genuinely bespoke work".

In the seventh chapter, *The Shifting Role of In-House Lawyers*, Susskind focuses on influence of ongoing changes on in-house lawyes and emphasizes skills they will need to develop in order to remain a part of legal world of future. No longer will it be sufficient for lawyers to only have fine legal knowledge, they will need to, as Susskind highlights "acquire various softer skills if they are to win new clients and keep them happy". Higher level of empathy from lawyers for their clients will be required. But even with that, the problem of the "more-for-less challenge" remains. One of possible solutions to that Susskind sees in emerging of law firms to create more "productive, efficient and civilized" group of lawyers focused on the interests of clients.

Answer to often asked question by his audience (about time scales of changes he talks about) Susskind gave in the eighth chapter of this book titled *The Timing of the Changes*. He believes that the changes he predicts will unfold in three stages. The first one – denial, includes lawyers who live in hope that once economy recovers modus operandi of 2006 will come to life again. Since Susskind sees that to be practically implausible he believes that this will lead to second stage - re-sourcing. As I mentioned earlier, according to Susskind, this stage includes sourcing routine work beyond the firm. The final stage - disruption will bring new technologies that will "challenge and displace the traditional way in which legal work has been done in the past". These predictions I believe to be extremely realistic, since it would be quite foolish to believe, having seen changes similar to these in many other sectors of our economy that law will simply remain immune to it.

As introduction to the ninth chapter, *Access to Justice and Online Legal Services*, Susskind used great comparison between current situation considering access to justice and Kafka's *Trial*. He wanted to show how current legal system is not far from Kafka's gatekeeper who refused to grant a man entry into the law. When we take in consideration that most citizens don't know most of the law and cannot afford legal advice, this comparison seems to be only an indicator of widespread situation. After identifying main obstacles in law for non-lawyers, he presented online legal services as "one clear alternative" of getting legal help. Susskind believes it will help clients to recognize when legal input is required as well as in the selection of lawyers. According to him it will "liberate the latent legal market".

He expressed his interests in computers and judicial process in chapter ten, *Judges, IT, Virtual Courts and ODR*. Even though Susskind says it is "neither possible nor desirable for computers to fully take over the work of judges" he believes that documents they

create can be decomposed and multi-sourced in order to liberate judges from those parts that can be done by those who are less qualified. He criticizes lack of progress and paper-based organization of much of the work as well as "inefficient, slow and too costly" court system. As a solution he suggests more IT-driven work of judges and courts, such as virtual courts and online dispute resolution. E-working, IT-enabled courts, virtual courts and ODR Susskind sees to be "the world into which tomorrow's lawyers are striding".

In the final part (chapter 11-16), *Prospects for Young Lawyers*, Susskind focuses on the future of young lawyers who are preparing to enter the competitive world of legal system. He points out on the new jobs for young lawyers and questions old training grounds as well as equipping them with useful questions for their current and future employers.

In chapter eleven, *New Jobs for Lawyers*, Susskind highlights his prediction that fewer traditional lawyers will be needed, and opportunities for new jobs favouring "sufficiently flexible, open-minded, and entrepreneurial" lawyers will be opened. This does not mean that he advocates that qualifying as a conventional lawyer is not needed. On the contrary, he believes in "valuable foundation upon which to build new career in law". Once they get properly educated, they should be proactive and flexible for new jobs even if they are not as Susskind says what they had in mind "when embarking upon law school".

In the twelfth chapter Susskind links new jobs mentioned in previous chapter with a list of new range of employers that are going to offer them. Since some of those legal tasks no longer require the direct involvement of traditional lawyers, good legal technologist in the coming period would need to be qualified lawyer? Susskind still suggests to law school graduates to "try to obtain work in a law firm or in-house legal department" in order to get complete training as a lawyer, but also gives them hope that if they fail to do so there will be plenty other legal businesses mentioned in previous chapter which will be interested in engaging them.

The thirteenth chapter, *Training Lawyers for What?*, points on a question that's the current issue of law schools worldwide: are the law schools really prepare students adequately for their future jobs and what are they trained to become? Susskind's fear is that young lawyers are being trained to become 20th-century lawyers even though they live and work in 21st-century. I believe his fear is justified since most law school are clinging to the old, well known and outdated methods justifying them to be reliable and part of tradition. As a solution to this issue Susskind suggests following the lead of law schools such as University of Miami School of Law, Michigan State University College of Law and Harvard Law School that "changed the way the law is taught and practised".

The fourteenth chapter, *Replacing the Old Training Ground* deals with training problems earlier mentioned. Susskind highlights that the early steps of young lawyers toward becoming experts (are not best taken) by dealing with a bunch of routine and repetitive work but by "working closely with, and observing legal experts in action". He suggests that instead of uncritical inheritance of traditional methods, law schools should embrace the possibilities offered by modern technology, consequently educational technologies such as E-learning and simulated legal practice should be taken in consideration.

The fifteenth chapter, *Questions to Ask Employers*, Susskind used to list questions he believes young lawyers who think about the long term should ask their potential employers. Although all of these questions are useful to be equipped with (because they give overview of employers thoughts and plans) should be used with caution. Even though Susskind claims that using one or two of them will show interest and engagement, it is my belief that there are rare occasions in which these questions can actually be used. The reason is the fact that the job market is so competitive and economic situation is so critical

that the one can be glad to secure any position at all. Apart from that, if one truly finds itself in situation favorable to set any of these questions, the answers will unquestionably be as Susskind says "highly illuminating" for his future.

In the sixteenth and last chapter of his book, *The Long Term*, Susskind once again points out "it is neither hyperbolic nor fanciful to expect the legal profession to change beyond recognition". He puts changes he predicts in some wider context and a message to future young lawyers with content often forgotten even by experienced and recognized legal practitioners. Susskind's message says "it is not the purpose of law to keep lawyers in business" but "to help to support society's need of the law". It is something every legal practitioner should have in mind while performing legal service.

All in all, even though I find Susskind's idea of new legal era with plenty of new jobs for everyone a bit overly enthusiastic, and some of the predictions he makes to be more sci-fi rather than academic, I still find this book to be a worthwhile read because it gives rise to more serious reflection about the future of legal system. It is my belief that Croatian readers who work on any level of the legal profession could benefit from this book. It could help in raising awareness on the issue of outdated legal education still used in Croatia in spite of progress of society. The book could also provide new young lawyers with ideas of how to find their place in the Croatian legal market in the times of increased number of people who are engaged in the legal profession (or are at least trying to be).

Altogether with this book Susskind provides lawyers, judges, academics as well as law students with different point of view when it comes to legal system now and in the future, presents them his predictions and encourages them to be flexible and tuned in, in order to "survive" the stage of "information technology" (as Susskind calls it) that is before us.